



Rep. John D'Amico

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09800HB2351ham001

LRB098 07392 MLW 42051 a

1 AMENDMENT TO HOUSE BILL 2351

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2351 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by  
5 changing Sections 4-203, 11-1302, and 11-1431 as follows:

6 (625 ILCS 5/4-203) (from Ch. 95 1/2, par. 4-203)

7 Sec. 4-203. Removal of motor vehicles or other vehicles;  
8 Towing or hauling away.

9 (a) When a vehicle is abandoned, or left unattended, on a  
10 toll highway, interstate highway, or expressway for 2 hours or  
11 more, its removal by a towing service may be authorized by a  
12 law enforcement agency having jurisdiction.

13 (b) When a vehicle is abandoned on a highway in an urban  
14 district 10 hours or more, its removal by a towing service may  
15 be authorized by a law enforcement agency having jurisdiction.

16 (c) When a vehicle is abandoned or left unattended on a

1 highway other than a toll highway, interstate highway, or  
2 expressway, outside of an urban district for 24 hours or more,  
3 its removal by a towing service may be authorized by a law  
4 enforcement agency having jurisdiction.

5 (d) When an abandoned, unattended, wrecked, burned or  
6 partially dismantled vehicle is creating a traffic hazard  
7 because of its position in relation to the highway or its  
8 physical appearance is causing the impeding of traffic, its  
9 immediate removal from the highway or private property adjacent  
10 to the highway by a towing service may be authorized by a law  
11 enforcement agency having jurisdiction. If the owner of a  
12 disabled vehicle is present at the scene of the disabled  
13 vehicle and, in the officer's opinion, the disabled vehicle is  
14 not obstructing traffic, the officer shall allow the owner of  
15 the vehicle to specify which towing service the owner would  
16 like to relocate the disabled vehicle. If the owner chooses not  
17 to specify a towing service, the officer may select a towing  
18 service for the vehicle. Any tow initiated by a law enforcement  
19 agency or officer shall be communicated by the law enforcement  
20 agency directly to the tow company by phone or computer.

21 (e) Whenever a peace officer reasonably believes that a  
22 person under arrest for a violation of Section 11-501 of this  
23 Code or a similar provision of a local ordinance is likely,  
24 upon release, to commit a subsequent violation of Section  
25 11-501, or a similar provision of a local ordinance, the  
26 arresting officer shall have the vehicle which the person was

1 operating at the time of the arrest impounded for a period of  
2 not more than 12 hours after the time of arrest. However, such  
3 vehicle may be released by the arresting law enforcement agency  
4 prior to the end of the impoundment period if:

5 (1) the vehicle was not owned by the person under  
6 arrest, and the lawful owner requesting such release  
7 possesses a valid operator's license, proof of ownership,  
8 and would not, as determined by the arresting law  
9 enforcement agency, indicate a lack of ability to operate a  
10 motor vehicle in a safe manner, or who would otherwise, by  
11 operating such motor vehicle, be in violation of this Code;  
12 or

13 (2) the vehicle is owned by the person under arrest,  
14 and the person under arrest gives permission to another  
15 person to operate such vehicle, provided however, that the  
16 other person possesses a valid operator's license and would  
17 not, as determined by the arresting law enforcement agency,  
18 indicate a lack of ability to operate a motor vehicle in a  
19 safe manner or who would otherwise, by operating such motor  
20 vehicle, be in violation of this Code.

21 (e-5) Whenever a registered owner of a vehicle is taken  
22 into custody for operating the vehicle in violation of Section  
23 11-501 of this Code or a similar provision of a local ordinance  
24 or Section 6-303 of this Code, a law enforcement officer may  
25 have the vehicle immediately impounded for a period not less  
26 than:

1           (1) 24 hours for a second violation of Section 11-501  
2 of this Code or a similar provision of a local ordinance or  
3 Section 6-303 of this Code or a combination of these  
4 offenses; or

5           (2) 48 hours for a third violation of Section 11-501 of  
6 this Code or a similar provision of a local ordinance or  
7 Section 6-303 of this Code or a combination of these  
8 offenses.

9           The vehicle may be released sooner if the vehicle is owned  
10 by the person under arrest and the person under arrest gives  
11 permission to another person to operate the vehicle and that  
12 other person possesses a valid operator's license and would  
13 not, as determined by the arresting law enforcement agency,  
14 indicate a lack of ability to operate a motor vehicle in a safe  
15 manner or would otherwise, by operating the motor vehicle, be  
16 in violation of this Code.

17           (f) Except as provided in Chapter 18a of this Code, the  
18 owner or lessor of privately owned real property within this  
19 State, or any person authorized by such owner or lessor, or any  
20 law enforcement agency in the case of publicly owned real  
21 property may cause any motor vehicle abandoned or left  
22 unattended upon such property without permission to be removed  
23 by a towing service without liability for the costs of removal,  
24 transportation or storage or damage caused by such removal,  
25 transportation or storage. The towing or removal of any vehicle  
26 from private property without the consent of the registered

1 owner or other legally authorized person in control of the  
2 vehicle is subject to compliance with the following conditions  
3 and restrictions:

4 1. Any towed or removed vehicle must be stored at the  
5 site of the towing service's place of business. The site  
6 must be open during business hours, and for the purpose of  
7 redemption of vehicles, during the time that the person or  
8 firm towing such vehicle is open for towing purposes.

9 2. The towing service shall within 30 minutes of  
10 completion of such towing or removal, notify the law  
11 enforcement agency having jurisdiction of such towing or  
12 removal, and the make, model, color and license plate  
13 number of the vehicle, and shall obtain and record the name  
14 of the person at the law enforcement agency to whom such  
15 information was reported.

16 3. If the registered owner or legally authorized person  
17 entitled to possession of the vehicle shall arrive at the  
18 scene prior to actual removal or towing of the vehicle, the  
19 vehicle shall be disconnected from the tow truck and that  
20 person shall be allowed to remove the vehicle without  
21 interference, upon the payment of a reasonable service fee  
22 of not more than one half the posted rate of the towing  
23 service as provided in paragraph 6 of this subsection, for  
24 which a receipt shall be given.

25 4. The rebate or payment of money or any other valuable  
26 consideration from the towing service or its owners,

1 managers or employees to the owners or operators of the  
2 premises from which the vehicles are towed or removed, for  
3 the privilege of removing or towing those vehicles, is  
4 prohibited. Any individual who violates this paragraph  
5 shall be guilty of a Class A misdemeanor.

6 5. Except for property appurtenant to and obviously a  
7 part of a single family residence, and except for instances  
8 where notice is personally given to the owner or other  
9 legally authorized person in control of the vehicle that  
10 the area in which that vehicle is parked is reserved or  
11 otherwise unavailable to unauthorized vehicles and they  
12 are subject to being removed at the owner or operator's  
13 expense, any property owner or lessor, prior to towing or  
14 removing any vehicle from private property without the  
15 consent of the owner or other legally authorized person in  
16 control of that vehicle, must post a notice meeting the  
17 following requirements:

18 a. Except as otherwise provided in subparagraph  
19 a.1 of this subdivision (f)5, the notice must be  
20 prominently placed at each driveway access or curb cut  
21 allowing vehicular access to the property within 5 feet  
22 from the public right-of-way line. If there are no  
23 curbs or access barriers, the sign must be posted not  
24 less than one sign each 100 feet of lot frontage.

25 a.1. In a municipality with a population of less  
26 than 250,000, as an alternative to the requirement of

1            subparagraph a of this subdivision (f)5, the notice for  
2            a parking lot contained within property used solely for  
3            a 2-family, 3-family, or 4-family residence may be  
4            prominently placed at the perimeter of the parking lot,  
5            in a position where the notice is visible to the  
6            occupants of vehicles entering the lot.

7            b. The notice must indicate clearly, in not less  
8            than 2 inch high light-reflective letters on a  
9            contrasting background, that unauthorized vehicles  
10           will be towed away at the owner's expense.

11           c. The notice must also provide the name and  
12           current telephone number of the towing service towing  
13           or removing the vehicle.

14           d. The sign structure containing the required  
15           notices must be permanently installed with the bottom  
16           of the sign not less than 4 feet above ground level,  
17           and must be continuously maintained on the property for  
18           not less than 24 hours prior to the towing or removing  
19           of any vehicle.

20           6. Any towing service that tows or removes vehicles and  
21           proposes to require the owner, operator, or person in  
22           control of the vehicle to pay the costs of towing and  
23           storage prior to redemption of the vehicle must file and  
24           keep on record with the local law enforcement agency a  
25           complete copy of the current rates to be charged for such  
26           services, and post at the storage site an identical rate

1 schedule and any written contracts with property owners,  
2 lessors, or persons in control of property which authorize  
3 them to remove vehicles as provided in this Section. The  
4 towing and storage charges, however, shall not exceed the  
5 maximum allowed by the Illinois Commerce Commission under  
6 Section 18a-200.

7 7. No person shall engage in the removal of vehicles  
8 from private property as described in this Section without  
9 filing a notice of intent in each community where he  
10 intends to do such removal, and such notice shall be filed  
11 at least 7 days before commencing such towing.

12 8. No removal of a vehicle from private property shall  
13 be done except upon express written instructions of the  
14 owners or persons in charge of the private property upon  
15 which the vehicle is said to be trespassing.

16 9. Vehicle entry for the purpose of removal shall be  
17 allowed with reasonable care on the part of the person or  
18 firm towing the vehicle. Such person or firm shall be  
19 liable for any damages occasioned to the vehicle if such  
20 entry is not in accordance with the standards of reasonable  
21 care.

22 10. When a vehicle has been towed or removed pursuant  
23 to this Section, it must be released to its owner or  
24 custodian within one half hour after requested, if such  
25 request is made during business hours. Any vehicle owner or  
26 custodian or agent shall have the right to inspect the



1 vehicle before accepting its return, and no release or  
2 waiver of any kind which would release the towing service  
3 from liability for damages incurred during the towing and  
4 storage may be required from any vehicle owner or other  
5 legally authorized person as a condition of release of the  
6 vehicle. A detailed, signed receipt showing the legal name  
7 of the towing service must be given to the person paying  
8 towing or storage charges at the time of payment, whether  
9 requested or not.

10 This Section shall not apply to law enforcement,  
11 firefighting, rescue, ambulance, or other emergency vehicles  
12 which are marked as such or to property owned by any  
13 governmental entity.

14 When an authorized person improperly causes a motor vehicle  
15 to be removed, such person shall be liable to the owner or  
16 lessee of the vehicle for the cost or removal, transportation  
17 and storage, any damages resulting from the removal,  
18 transportation and storage, attorney's fee and court costs.

19 Any towing or storage charges accrued shall be payable by  
20 the use of any major credit card, in addition to being payable  
21 in cash.

22 11. Towing companies shall also provide insurance  
23 coverage for areas where vehicles towed under the  
24 provisions of this Chapter will be impounded or otherwise  
25 stored, and shall adequately cover loss by fire, theft or  
26 other risks.

1 Any person who fails to comply with the conditions and  
2 restrictions of this subsection shall be guilty of a Class C  
3 misdemeanor and shall be fined not less than \$100 nor more than  
4 \$500.

5 (g)(1) When a vehicle is determined to be a hazardous  
6 dilapidated motor vehicle pursuant to Section 11-40-3.1 of the  
7 Illinois Municipal Code or Section 5-12002.1 of the Counties  
8 Code, its removal and impoundment by a towing service may be  
9 authorized by a law enforcement agency with appropriate  
10 jurisdiction.

11 (2) When a vehicle removal from either public or private  
12 property is authorized by a law enforcement agency, the owner  
13 of the vehicle shall be responsible for all towing and storage  
14 charges.

15 (3) Vehicles removed from public or private property and  
16 stored by a commercial vehicle relocater or any other towing  
17 service authorized by a law enforcement agency in compliance  
18 with this Section and Sections 4-201 and 4-202 of this Code, or  
19 at the request of the vehicle owner or operator, shall be  
20 subject to a possessor lien for services pursuant to the Labor  
21 and Storage Lien (Small Amount) Act. The provisions of Section  
22 1 of that Act relating to notice and implied consent shall be  
23 deemed satisfied by compliance with Section 18a-302 and  
24 subsection (6) of Section 18a-300. In no event shall such lien  
25 be greater than the rate or rates established in accordance  
26 with subsection (6) of Section 18a-200 of this Code. In no

1 event shall such lien be increased or altered to reflect any  
2 charge for services or materials rendered in addition to those  
3 authorized by this Act. Every such lien shall be payable by use  
4 of any major credit card, in addition to being payable in cash.

5 (4) Any personal property belonging to the vehicle owner in  
6 a vehicle subject to a lien under this subsection (g) shall  
7 likewise be subject to that lien, excepting only: child  
8 restraint systems as defined in Section 4 of the Child  
9 Passenger Protection Act and other child booster seats;  
10 eyeglasses; food; medicine; perishable property; any  
11 operator's licenses; any cash, credit cards, or checks or  
12 checkbooks; any wallet, purse, or other property containing any  
13 operator's license or other identifying documents or  
14 materials, cash, credit cards, checks, or checkbooks; and any  
15 personal property belonging to a person other than the vehicle  
16 owner if that person provides adequate proof that the personal  
17 property belongs to that person. The spouse, child, mother,  
18 father, brother, or sister of the vehicle owner may claim  
19 personal property excepted under this paragraph (4) if the  
20 person claiming the personal property provides the commercial  
21 vehicle relocater or towing service with the authorization of  
22 the vehicle owner.

23 (5) This paragraph (5) applies only in the case of a  
24 vehicle that is towed as a result of being involved in an  
25 accident. In addition to the personal property excepted under  
26 paragraph (4), all other personal property in a vehicle subject

1 to a lien under this subsection (g) is exempt from that lien  
2 and may be claimed by the vehicle owner if the vehicle owner  
3 provides the commercial vehicle relocater or towing service  
4 with proof that the vehicle owner has an insurance policy  
5 covering towing and storage fees. The spouse, child, mother,  
6 father, brother, or sister of the vehicle owner may claim  
7 personal property in a vehicle subject to a lien under this  
8 subsection (g) if the person claiming the personal property  
9 provides the commercial vehicle relocater or towing service  
10 with the authorization of the vehicle owner and proof that the  
11 vehicle owner has an insurance policy covering towing and  
12 storage fees. The regulation of liens on personal property and  
13 exceptions to those liens in the case of vehicles towed as a  
14 result of being involved in an accident are exclusive powers  
15 and functions of the State. A home rule unit may not regulate  
16 liens on personal property and exceptions to those liens in the  
17 case of vehicles towed as a result of being involved in an  
18 accident. This paragraph (5) is a denial and limitation of home  
19 rule powers and functions under subsection (h) of Section 6 of  
20 Article VII of the Illinois Constitution.

21 (6) No lien under this subsection (g) shall: exceed \$2,000  
22 in its total amount; or be increased or altered to reflect any  
23 charge for services or materials rendered in addition to those  
24 authorized by this Act.

25 (h) Whenever a peace officer issues a citation to a driver  
26 for a violation of subsection (a) of Section 11-506 of this

1 Code, the arresting officer may have the vehicle which the  
2 person was operating at the time of the arrest impounded for a  
3 period of 5 days after the time of arrest. An impounding agency  
4 shall release a motor vehicle impounded under this subsection  
5 (h) to the registered owner of the vehicle under any of the  
6 following circumstances:

7 (1) If the vehicle is a stolen vehicle; or

8 (2) If the person ticketed for a violation of  
9 subsection (a) of Section 11-506 of this Code was not  
10 authorized by the registered owner of the vehicle to  
11 operate the vehicle at the time of the violation; or

12 (3) If the registered owner of the vehicle was neither  
13 the driver nor a passenger in the vehicle at the time of  
14 the violation or was unaware that the driver was using the  
15 vehicle to engage in street racing; or

16 (4) If the legal owner or registered owner of the  
17 vehicle is a rental car agency; or

18 (5) If, prior to the expiration of the impoundment  
19 period specified above, the citation is dismissed or the  
20 defendant is found not guilty of the offense.

21 (Source: P.A. 96-1274, eff. 7-26-10; 96-1506, eff. 1-27-11;  
22 97-779, eff. 7-13-12.)

23 (625 ILCS 5/11-1302) (from Ch. 95 1/2, par. 11-1302)

24 Sec. 11-1302. Officers authorized to remove vehicles.

25 (a) Whenever any police officer finds a vehicle in

1 violation of any of the provisions of Section 11-1301 such  
2 officer is hereby authorized to move such vehicle, or require  
3 the driver or other person in charge of the vehicle to move the  
4 same, to a position off the roadway. If the owner of a disabled  
5 vehicle is present at the scene of the disabled vehicle and, in  
6 the officer's opinion, the disabled vehicle is not obstructing  
7 traffic, the officer shall allow the owner of the vehicle to  
8 specify which towing service the owner would like to relocate  
9 the disabled vehicle. If the owner chooses not to specify a  
10 towing service, the officer may select a towing service for the  
11 vehicle. Any tow initiated by a law enforcement agency or  
12 officer shall be communicated by the law enforcement agency  
13 directly to the tow company by phone or computer.

14 (b) Any police officer is hereby authorized to remove or  
15 cause to be removed to a place of safety any unattended vehicle  
16 illegally left standing upon any highway, bridge, causeway, or  
17 in a tunnel, in such a position or under such circumstances as  
18 to obstruct the normal movement of traffic.

19 Whenever the Department finds an abandoned or disabled  
20 vehicle standing upon the paved or main-traveled part of a  
21 highway, which vehicle is or may be expected to interrupt the  
22 free flow of traffic on the highway or interfere with the  
23 maintenance of the highway, the Department is authorized to  
24 move the vehicle to a position off the paved or improved or  
25 main-traveled part of the highway.

26 (c) Any police officer is hereby authorized to remove or

1 cause to be removed to the nearest garage or other place of  
2 safety any vehicle found upon a highway when:

3 1. report has been made that such vehicle has been  
4 stolen or taken without the consent of its owner, or

5 2. the person or persons in charge of such vehicle are  
6 unable to provide for its custody or removal, or

7 3. ~~when~~ the person driving or in control of such  
8 vehicle is arrested for an alleged offense for which the  
9 officer is required by law to take the person arrested  
10 before a proper magistrate without unnecessary delay, or

11 4. ~~when~~ the registration of the vehicle has been  
12 suspended, cancelled, or revoked.

13 (Source: P.A. 97-743, eff. 1-1-13; revised 8-3-12.)

14 (625 ILCS 5/11-1431)

15 Sec. 11-1431. Solicitations at accident or disablement  
16 scene prohibited. A tower, as defined by Section 1-205.2 of  
17 this Code, or an employee or agent of a tower may not: (i) stop  
18 at the scene of a motor vehicle accident or at or near a  
19 damaged or disabled vehicle for the purpose of soliciting the  
20 owner or operator of the damaged or disabled vehicle to enter  
21 into a towing service transaction; or (ii) stop at the scene of  
22 an accident or at or near a damaged or disabled vehicle unless  
23 called to the location by a law enforcement officer, the  
24 Illinois Department of Transportation, the Illinois State Toll  
25 Highway Authority, a local agency having jurisdiction over the

1 highway, or the owner or operator of the damaged or disabled  
2 vehicle. Any tow initiated by a law enforcement agency or  
3 officer shall be communicated by the law enforcement agency  
4 directly to the tow company by phone or computer. This Section  
5 shall not apply to employees of the Department, the Illinois  
6 State Toll Highway Authority, or local agencies when engaged in  
7 their official duties. Nothing in this Section shall prevent a  
8 tower from stopping at the scene of a motor vehicle accident or  
9 at or near a damaged or disabled vehicle if the owner or  
10 operator signals the tower for assistance from the location of  
11 the motor vehicle accident or damaged or disabled vehicle.

12 (Source: P.A. 96-1376, eff. 7-29-10.)".